

AMENDED IN SENATE MAY 1, 2012

**SENATE BILL**

**No. 1572**

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**Introduced by Senator Pavley**

February 24, 2012

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An act to add Sections 38575 and ~~38575.5~~ 38575.1 to the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 1572, as amended, Pavley. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Account.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.

This bill would create the Greenhouse Gas Reduction Account within the Air Pollution Control Fund. The bill would require moneys, as specified, collected pursuant to a market-based compliance mechanism to be deposited in this account. The bill also would require those

moneys, upon appropriation by the Legislature, be used for purposes of carrying out the ~~California Global Warming Solutions Act of 2006 act~~. The bill would ~~declare the intent of the Legislature to enact legislation that would require the Governor to submit to the Legislature a draft plan detailing how moneys in the account should be spent and to establish criteria for the development and implementation of~~ ~~an~~ a final expenditure plan, as specified, for moneys appropriated from the Greenhouse Gas Reduction Account. *The bill would require that funds appropriated from the account be spent according to the final expenditure plan and for the purpose of achieving the goal of reducing greenhouse gas emissions in a manner that is consistent with the act. The bill would require state agencies designated by the Governor to develop and adopt the final expenditure plan through an open, public process.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In accordance with its discretionary authority to adopt
- 4 market-based compliance mechanisms pursuant to Part 5
- 5 (commencing with Section 38570) of Division 25.5 of the Health
- 6 and Safety Code, the State Air Resources Board adopted on
- 7 December 22, 2011, a final regulation order establishing the
- 8 cap-and-trade program, which took effect on January 1, 2012.
- 9 (b) California's cap-and-trade program is authorized by the
- 10 California Global Warming Solutions Act of 2006 (Division 25.5
- 11 (commencing with Section 38500) of the Health and Safety Code),
- 12 and the funds generated by the program are regulatory fees ~~whose~~
- 13 ~~use, the use of which~~ is required to conform with *Sinclair Paint*
- 14 *Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.
- 15 (c) Provided the cap-and-trade regulation remains substantially
- 16 unchanged, the state board will auction greenhouse gas emissions
- 17 allowances beginning in the 2012 ~~calendar~~ calendar year.
- 18 (d) Pursuant to the California Global Warming Solutions Act
- 19 of 2006 (Division 25.5 (commencing with Section 38500) of the
- 20 Health and Safety Code), proceeds from the auction of allowances
- 21 will be deposited in the Air Pollution Control Fund, and will only

1 be available, upon appropriation by the Legislature, for the  
2 purposes designated in the act.

3 (e) If the cap-and-trade regulation does not remain in effect, the  
4 state board may consider alternate rules or regulations that would  
5 be adopted pursuant to the California Global Warming Solutions  
6 Act of 2006 (Division 25.5 (commencing with Section 38500) of  
7 the Health and Safety Code) in an open public process to ensure  
8 that statewide greenhouse gas emissions are reduced to 1990 levels  
9 by 2020.

10 SEC. 2. Section 38575 is added to the Health and Safety Code,  
11 to read:

12 38575. (a) The Greenhouse Gas Reduction Account is hereby  
13 created within the Air Pollution Control Fund.

14 (b) Notwithstanding Section 38597, ~~all moneys, excluding~~  
15 ~~penalties and fines, moneys~~ collected pursuant to this part,  
16 ~~excluding penalties and fines~~, shall be deposited in the Greenhouse  
17 Gas Reduction Account and shall be available, upon appropriation  
18 by the Legislature, for purposes of carrying out this division.

19 SEC. 3. ~~It is the intent of the Legislature to enact legislation~~  
20 ~~that would do all of the following:~~

21 ~~(a) Require the Governor to submit to the Legislature a draft~~  
22 ~~expenditure plan detailing how moneys in the Greenhouse Gas~~  
23 ~~Reduction Account should be spent.~~

24 ~~(b) Based on the draft expenditure plan, establish criteria to be~~  
25 ~~used by a state agency or multiple state agencies, as appropriate,~~  
26 ~~to develop and adopt a final expenditure plan for the expenditure~~  
27 ~~of moneys in the Greenhouse Gas Reduction Account, upon~~  
28 ~~appropriation of those moneys by the Legislature.~~

29 ~~(c) Appropriate funds from the Greenhouse Gas Reduction~~  
30 ~~Account to be spent according to the final expenditure plan and~~  
31 ~~for the purpose of achieving the goal of reducing greenhouse gas~~  
32 ~~emissions in a manner that is consistent with Division 25.5~~  
33 ~~(commencing with Section 38500) of the Health and Safety Code.~~

34 ~~(d) Require a state agency or multiple state agencies, as~~  
35 ~~appropriate, to develop and adopt the final expenditure plan through~~  
36 ~~an open public process.~~

37 SEC. 3. *Section 38575.1 is added to the Health and Safety*  
38 *Code, to read:*

39 38575.1. (a) *The Governor shall submit to the Legislature a*  
40 *draft expenditure plan detailing how moneys in the Greenhouse*

1 *Gas Reduction Account established in Section 38575 should be*  
2 *spent.*

3 *(b) Based on the draft expenditure plan, the Governor shall*  
4 *establish criteria to be used by state agencies, as designated by*  
5 *the Governor, to develop and adopt a final expenditure plan for*  
6 *the expenditure of moneys in the Greenhouse Gas Reduction*  
7 *Account, upon appropriation of those moneys by the Legislature.*

8 *(c) Funds appropriated from the Greenhouse Gas Reduction*  
9 *Account shall be spent according to the final expenditure plan and*  
10 *for the purpose of achieving the goal of reducing greenhouse gas*  
11 *emissions in a manner that is consistent with Division 25.5*  
12 *(commencing with Section 38500).*

13 *(d) State agencies designated by the Governor pursuant to*  
14 *subdivision (b) shall develop and adopt the final expenditure plan*  
15 *through an open, public process.*